

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

MARK DELANE WARD,

Plaintiff,

v.

CIVIL ACTION NO. 3:12-06186

LAUREN PLYMALE, Cabell
County Assistant Prosecutor, et al.,

Defendants.

ORDER

Currently pending before this Court is Plaintiff Mark Delane Ward's *pro se* Complaint filed pursuant to 42 U.S.C. § 1983. This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendations for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that this Court dismiss this action. Plaintiff has filed two letter-form objections to the Magistrate Judge's findings and recommendations on the grounds that he was entitled to a preliminary hearing and he should not have been indicted.¹

¹The Court's review is limited to these issues. In his objections, Plaintiff makes a general and conclusory statement that he "object[s] to every claim that this Court stated in this Petition that was wrong following this main argument according to the denial of my rights." *Pl.'s Obj.*, ECF No. 22, at *4. The Court will not address general and conclusory objections. *See Smith v. Washington Mut. Bank FA*, 308 Fed. Appx. 707, at 708 (4th Cir. 2009) (per curiam) (stating a court "need not conduct de novo review . . . 'when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations'" (quoting *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982); *see* Fed.R.Civ.P. 72(b)).

As explained by the Magistrate Judge, this action is one of five proceedings Plaintiff has filed in this Court challenging many of the same issues.² Although this action was filed pursuant to § 1983, and the other actions were filed as habeas petitions, Plaintiff raises the same issues as his objections. Upon de novo review, the Court again finds Plaintiff's arguments without merit for the reasons set forth in the Proposed Findings and Recommendations entered in this case and for the same reasons set forth by this Court and two Magistrate Judges in Plaintiff's other actions. Accordingly, the Court accepts and incorporates herein the findings and recommendations of the Magistrate Judge and **DISMISSES** this action **WITH PREJUDICE** from the docket of the Court.

Last week, Plaintiff also filed a Motion for Expedited Relief in which he asks this Court to direct the state court judge to release him on the same grounds as raised in his objections. As the Court has dismissed the Complaint, the Court also **DENIES WITH PREJUDICE** Plaintiff's Motion for Expedited Relief. ECF No. 24.

The Court additionally has considered whether to grant a certificate of appealability. *See* 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." *Id.* at § 2253(c)(2). The standard is

²The other actions filed by Petitioner were resolved as follows: *Ward v. Crawford*, Civ. Act. No. 3:13-22243 (adopting the Magistrate Judge's Proposed Findings and Recommendations, over Petitioner's objections, and dismissing Petition filed pursuant to 28 U.S.C. § 2254); *Ward v. Clark*, Civ. Act. No. 3:12-07928, 2013 WL 4478021 (S.D. W. Va. Apr. 9, 2013) (adopting the Magistrate Judge's Proposed Findings and Recommendations, over Petitioner's objections, and dismissing Petition filed pursuant to 28 U.S.C. § 2241); *Ward v. Clark*, Civ. Act. No. 3:12-07283, 2013 WL 1437615 (S.D. W. Va. Apr. 9, 2013) (adopting the Magistrate Judge's Proposed Findings and Recommendations, over Petitioner's objections, and dismissing Petition filed pursuant to 28 U.S.C. § 2241); *Ward v. Clark*, Civ. Act. No. 3:12-06386 (dismissing action at Petitioner's request).

satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this Court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. *Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683-84 (4th Cir. 2001). The Court concludes that the governing standard is not satisfied in this instance. Accordingly, the Court **DENIES** a certificate of appealability.

The Court **DIRECTS** the Clerk to send a copy of this Order to Magistrate Judge Eifert, counsel of record, and any unrepresented parties.

ENTER: November 25, 2013



ROBERT C. CHAMBERS, CHIEF JUDGE